

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BEATINA MARSHALL,

Defendant.

CASE NO. 05-80716
13-51638
HON. LAWRENCE P. ZATKOFF

OPINION AND ORDER

AT A SESSION of said Court, held in the
United States Courthouse, in the City of Port Huron,
State of Michigan, on December 17, 2013

PRESENT: THE HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

I. INTRODUCTION

This matter is before the Court on Defendant's Petition for Expunction of Criminal Records (Docket #1 in Case No. 13-51638). The legal rule regarding this matter has recently been clearly annunciated by the Sixth Circuit Court of Appeals. Therefore, finding that the determination of the issues will not be aided by oral argument, and pursuant to E.D. Mich. Local R. 7.1(f)(2), this Court **ORDERS** that Defendant's petition be decided upon the brief submitted, without this Court entertaining oral arguments. For the reasons that follow, Defendant's Petition for Expunction of Criminal Records is **DENIED**.

II. BACKGROUND

In 2005, a U.S. Postal Inspector filed a criminal complaint against Defendant alleging that on five separate occasions, she used financial instruments stolen from the mail to purchase items or pay for bills. Defendant was charged with three offenses: (1) Fraud and Related Activity in Connection with Access Devices; (2) Bank Fraud; and (3) Theft or Receipt of Stolen Mail Matter

Generally. Approximately six months later, the Government moved to dismiss the complaint while it continued to investigate the charges and decide whether to proceed with the criminal prosecution. The Court granted the Government's motion and dismissed the complaint without prejudice. The Government has never resumed prosecution of Defendant. Defendant seeks to have her records expunged from the Federal Bureau of Investigation and the Michigan State Police Criminal Justice Information Center.

III. OPINION

In a recent case, the Sixth Circuit Court of Appeals held that a district court does not have jurisdiction to consider a defendant's expungement motion. *See United States v. Lucido*, 612 F.3d 871 (6th Cir. 2010). As such, this Court lacks the authority to review this case on the merits and must deny Defendant's Petition for Expunction of Criminal Records.

IV. CONCLUSION

Accordingly, and for the reasons set forth above, Defendant's Petition for Expunction of Criminal Records (Docket #1 in Case No. 13-51638) is DENIED.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: December 17, 2013